REMARKS

I. Introduction

In response to the Office Action dated August 16, 2004, claims 2, 15, and 28 have been cancelled, and claims 1, 3, 14, 16, 27, and 29 have been amended. Claims 1, 3-14, 16-27, and 29-39 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Examiner Interview Summary

Record is made of a telephone interview on August 30, 2004 between the Applicant's attorney Jason S. Feldmar, and Examiner Djenane Bayard in connection with the present patent application. Applicant noted that the Form 892 received with the Office Action did not include all of the references cited in the Office Action. The Examiner agreed to issue an interview summary attaching a new Form 892 that included all of the references.

The interview summary and new Form 892 were mailed from the PTO on September 8, 2004. Applicant appreciates the receipt of the Interview Summary and new Form 892. Nonetheless, it appears that while the list of references and Interview Summary has been scanned into the IFW system, the actual references are not available through private PAIR. Applicant would appreciate any efforts by the Examiner to ensure that the references are entered into the record and available through private PAIR.

III. Prior Art Rejections

In paragraphs (1)-(2) of the Office Action, claims 1-7, 9, 12-20, 25-33, 35, and 39 were rejected under 35 U.S.C. §102(e) as being anticipated by Borella et al., U.S. Patent No. 6,182,125 (Borella). In paragraphs (3)-(4) of the Office Action, claims 8, 21, and 34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Borella in view of Dryfoos et al., U.S. Patent No. 6,598,180 (Dryfoos). In paragraph (5) claims 10-11, 23-24, 36-37, and 38 were rejected under 35 U.S.C. §103(a) as being unpatentable over Borella in view of Harter et al., U.S. Patent No. 6,212,564 (Harter).

Applicant respectfully traverses these rejections.

Specifically, the independent claims were rejected as follows:

> As per claims 1 and 27, Borella et al teaches a computer-implemented method for obtaining information across a network comprising: determining a speed of a network connection to which a computer is attached (See col. 5, lines 8-18); and obtaining information from across the network connection based on the speed of the network connection, wherein a size of the information to be obtained decreases as the speed of the network connection decreases (See col. 5, lines 62-67 and col. 6, lines 1-8).
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> As per claim 14, Borella et al teaches a computer-implemented system for obtaining information across a computer network comprising: (a) a client (See col. 2, lines (10-11); (b) an adaptive agent executing on the client, wherein the adaptive agent is configured to: (i) determine a speed of a network connection to which a computer is attached; and (ii) obtain information from across the network connection based on the speed of the network connection, wherein a size of the information to be obtained decreases as the speed of the network connection decreases (See col. 5, lines 62-67 and col. 6, lines 1-8).

Applicant traverses the above rejections for one or more of the following reasons:

(1) Borella, Dryfoos, and Harter do not teach, disclose or suggest determining a speed of a network by requesting (across a network) an object of a pre-known size and properties from a calibrated object library (on a server); and

(2) Borella, Dryfoos, and Harter do not teach, disclose or suggest determining a speed of a network by obtaining (from across a network) the requested object of a pre-known size and properties from a calibrated object library (on a server).

Independent claims 1, 14, and 27 are generally directed to obtaining information across a network based on a speed of the network connection (wherein the size of the information decreases as the speed of the network decreases). To accommodate the different sizes of information to be obtained, the claims provide the ability to determine the speed of the network connection in a specific manner. In this regard, a calibrated object library on a server is used. The client transmits a request, across the network connection, to the calibrated object library, for an object of a pre-known size and properties. Once requested, the requested object is obtained/transmitted back to the client across the network connection. The speed of the network is then based on a measurement of the round-trip response time calculated from the transmitting of the request for the object to completion of obtaining the object from across the network connection.

Accordingly, instead of sending a particular packet of information from a client to a server and then receiving the packet back (e.g., as with a ping command), the independent claims provide an alternative method wherein a request for a particular size object is requested and received back.

The cited references do not teach nor suggest these various elements of Applicant's independent claims.

Borella merely describes a method for improving perception of electronic content from a computer network such as the Internet or an intranet. Network latencies and the type of electronic content such as text, graphical images, animation, voice, video and other electronic content interact to influence user perception of the quality of information provided. As network latency increases and becomes more variable, users typically become less satisfied. The method dynamically adjusts the amount of electronic content presented to user based on a determined network latency. The amount of electronic content is also adjusted progressively and underlying transport protocol such as Transmission Control Protocol ("TCP") and User Datagram Protocol ("UDP") are adaptively adjusted based on the type of electronic content requested (e.g., TCP for text, UDP for graphical images, etc.). Borella's method may improve user perception of requested original electronic content by dynamically sending an amount of original electronic content based on a determined network latency. Further, Borella may provide improved user perception of original electronic content to help attract and retain, students, customers, contributors, etc. to an organization's electronic content site on a computer network (e.g., a home page on the Internet or an intranet). (See Abstract).

However, Borella lacks any discussion about the specifically claimed methodology for determining the speed of the network. In this regard, prior claim 2 was rejected based on Borella's col. 5, lines 8-10 which describes ICMP packets. As stated above (and as set forth in Borella), the ICMP packets are internet control message protocol ping packets that are sent to a user's computer and are returned with a timestamp that can be used to determine round-trip latency (see col. 4, line 65-col. 5, line 18). Thus, unlike the present claims where a request for a particular object is sent and the object is received, Borella merely sends a packet to a computer and back and based on a timestamp determines the network latency. Such a teaching is not even remotely similar to the network speed determination set forth in the present claims. Accordingly, Borella fails to teach, disclose, or suggest, implicitly or explicitly, multiple aspects of the present invention.

In rejecting the library aspects of original claim 8, the Office Action relied on Dryfoos. Applicant notes that the library aspects of claim 8 reflect the retrieval of the information from across the network connection and are not addressing the determination of the network speed as the

amended independent claims. Nonetheless, Applicant notes that Dryfoos fails to teach any such transmittal of information from a library across a network. The Office Action relies on col. 5, lines 1-20 to teach this aspect of claim 8. However, this portion of Dryfoos (and the remainder of Dryfoos) merely describe maintaining a library of multiple program versions that are to be debugged. In this regard, Dryfoos is not related to the reduction of information transmission time whatsoever. Instead, Dryfoos addresses the problems associated with debugging different program versions. Accordingly, Dryfoos is in a completely different field of art than the present invention. Further, Dryfoos' library is not of information that is retrieved across a network connection but is for multiple program versions to be debugged (see col. 5, lines 12-14).

In addition to the above, Harter also fails to cure the deficiencies of both Borella and Dryfoos. Moreover, the various elements of Applicant's claimed invention together provide operational advantages over Borella, Dryfoos, and Harter. In addition, Applicant's invention solves problems not recognized by Borella, Dryfoos, and Harter.

Thus, Applicant submits that independent claims 1, 14, and 27 are allowable over Borella, Dryfoos, and Harter. Further, dependent claims 3-13, 16-26, and 29-39 are submitted to be allowable over Borella, Dryfoos, and Harter in the same manner, because they are dependent on independent claims 1, 14, and 27, respectively, and thus contain all the limitations of the independent claims. In addition, dependent claims 3-13, 16-26, and 29-39 recite additional novel elements not shown by Borella, Dryfoos, and Harter.

IV. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

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